

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matters of)	
)	
Joint Application by BellSouth Corporation,)	
BellSouth Telecommunications, Inc., and)	
BellSouth Long Distance, Inc., for Provision of In-)	WC Docket No. 02-307
Region, InterLATA Services in Florida and)	
Tennessee,)	
)	
Joint Application by BellSouth Corporation,)	
BellSouth Telecommunications, Inc., and)	
BellSouth Long Distance, Inc., for Provision of In-)	WC Docket No. 02-150
Region, InterLATA Services in Alabama,)	
Kentucky, Mississippi, North Carolina,)	
and South Carolina,)	
)	
and)	
)	
Joint Application by BellSouth Corporation,)	
BellSouth Telecommunications, Inc., and)	CC Docket No. 02-35
BellSouth Long Distance, Inc., for Provision of In-)	
Region, InterLATA Services in Georgia and)	
Louisiana.)	

Order

Adopted: September 13, 2005

Released: September 13, 2005

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION AND BACKGROUND

1. In order to provide BellSouth the necessary flexibility to use its available telecommunications network facilities to most effectively restore the services of other carriers and its own affiliates, the Wireline Competition Bureau grants, on its own motion, Special Temporary Authority (STA) to BellSouth to the extent described herein to reroute traffic affected by Hurricane Katrina, as necessary, over its interLATA corporate communications network. The effect of Hurricane Katrina on Louisiana, Mississippi, and Alabama (the Gulf Coast), and the subsequent flooding of New Orleans and other Gulf Coast areas, are well known at this time. Extensive damage to telecommunications infrastructure in this area has occurred, requiring carriers to reroute traffic around damaged facilities to restore service as quickly as possible. This restoration effort involves the use of other network facilities where sufficient capacity is available, and may require the routing of traffic across LATA boundaries that otherwise would be routed within LATA boundaries. Specifically, the Wireline Competition Bureau is aware that certain carriers have inquired whether BellSouth Telecommunications, Inc. (BellSouth) could route portions of their traffic to non-damaged designated facilities surrounding the areas where their

network facilities and switches have been damaged or destroyed by Hurricane Katrina.

II. DISCUSSION

2. In determining whether to grant an STA, we look at whether the proposed action will serve the public interest, convenience and necessity.¹ Here, Hurricane Katrina caused substantial damage to telecommunications network facilities. Restoring full telecommunications service in the region affected by the hurricane as quickly as possible is a critical component in the overall recovery operation in New Orleans and other Gulf State areas. Thus, there is a compelling public interest in rapidly restoring the flow of telecommunications traffic throughout the hurricane damaged area.

3. In the proceedings captioned above, the Commission granted BellSouth authority to provide in-region interLATA service originating in each state in its nine-state region upon demonstration of compliance with the requirements of sections 271 and 272 of the Act.² Section 272(a) and the Commission's implementing rules require BellSouth to provide in-region interLATA service through a separate affiliate.³ This requirement has sunset in Georgia and Louisiana, but remains in force in the rest of BellSouth's region.⁴ BellSouth's separate section 272 affiliate, BellSouth Long Distance, however, may not have sufficient capacity in its network to provide the services requested by these other carriers. The Bureau understands that BellSouth's corporate network has some capacity available to assist carriers in rerouting traffic, but this assistance may involve traffic transport across LATA boundaries. To

¹ See *Accounting Safeguards Under the Telecommunications Act of 1996*, Order, 16 FCC Rcd 17969, 17970, para. 3 (rel. Oct. 10, 2001) (applying STA standards to a request by Verizon Communications, Inc. to repair damage to telecommunications facilities in New York City after September 11, 2001, implicating section 272 and implementing rules); *Application of GTE Corporation and Bell Atlantic Corporation for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, Order, 16 FCC Rcd 15957, 15958, para. 3 (rel. Aug. 31, 2001) (addressing standard for granting STAs); see also 47 U.S.C. §§ 154(i), 214(a), 303(r).

² See *Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth LongDistance, Inc., for Provision of In-Region, InterLATA Services in Florida and Tennessee*, WC Docket No. 02-307, Memorandum Opinion and Order, 17 FCC Rcd 25828 (2002) (*Florida/Tennessee 271 Order*); *Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long-Distance, Inc., for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina*, WC Docket No. 02-150, Memorandum Opinion and Order, 17 FCC Rcd 17595 (2002); *Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Georgia and Louisiana*, CC Docket No. 02-35, Memorandum Opinion and Order, 17 FCC Rcd 9018 (2002).

³ See 47 C.F.R. §§ 53.1-53.213; see also *Implementation of the Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96-150, Report and Order, 11 FCC Rcd 17539 (1996); Order on Reconsideration, 14 FCC Rcd 11396 (1999); Second Order on Reconsideration, 15 FCC Rcd 1161 (2000); *Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905 (1996); First Order on Reconsideration, 12 FCC Rcd 2297 (1997); Second Order on Reconsideration, 12 FCC Rcd 8653 (1997), *aff'd sub nom. Bell Atlantic Telephone Companies v. FCC*, 131 F.3d 1044 (D.C. Cir. 1997), Third Order on Reconsideration, 14 FCC Rcd 16299 (1999).

⁴ See Section 272 Sunsets for BellSouth Communications Inc. in the States of Georgia and Louisiana by Operation of Law on May 15, 2005 Pursuant to Section 272(f)(1), WC Docket No. 02-112, Public Notice, 20 FCC Rcd 8998 (Wireline Comp. Bur. 2005). In states where section 272 separate affiliate requirements have sunset, BellSouth could provide in-region interLATA services on an integrated basis provided, however, that it complied with the rules currently applicable to services subject to dominant carrier regulation.

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facilitate this effort, BellSouth requires temporary authority to permit it, rather than its section 272 affiliate, to carry re-routed in-region interLATA traffic. This temporary authority necessarily implicates other section 272 requirements as well as the Commission's rules implementing section 272.⁵ Under the circumstances, a grant of limited, temporary authority to carry in-region interLATA traffic is warranted to facilitate restoration efforts free from the requirements of 272 and the Commission's implementing rules.

4. Accordingly, we grant BellSouth an STA for a limited 120-day period to enable it to use its corporate network in its entire region without regard to section 272 and the Commission's rules governing compliance with section 272, and without filing tariffs or contracts (or complying with related requirements) associated with these restoral services that would otherwise apply to interstate telecommunications services provided by BellSouth on an integrated basis.⁶ Similarly, to the extent that compliance with section 272 is a condition precedent to BellSouth's authority to carry in-region interLATA traffic in its nine-state region under section 271 of the Act, this condition is also temporarily waived for this limited special purpose.⁷ Special temporary authority will maximize BellSouth's ability to assist in restoring telecommunications services to the public in the affected area.

5. Granting an STA relieving BellSouth from applicable in-region InterLATA traffic requirements will enable BellSouth to transport telecommunications traffic as efficiently as possible despite the damage caused by Hurricane Katrina and its aftermath. Therefore, BellSouth may carry such traffic free of any restrictions contained in the Commission's orders and rules implementing section 272 of the Act. Should BellSouth need additional relief beyond the expiration of this STA, we would expect BellSouth to request such authority accompanied by a status report addressing its progress and indicating when it expects to resume compliance with these requirements.

III. ORDERING CLAUSE

6. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 201, 214(a), 271, 272, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 201, 214(a), 271, 272, and 303(r) and section 0.291 of the Commission's rules, 47 C.F.R. § 0.291, BellSouth IS GRANTED Special Temporary Authority as described above for activities related to the repair and restoration of facilities affected by Hurricane Katrina. This authority expires 120 days from the release date of this Order.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Navin
Chief, Wireline Competition Bureau

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⁵ See 47 C.F.R. §§ 53.1-53.213.

⁶ See 47 C.F.R. Part 61; *see also supra* note 4.

⁷ See, e.g., *Florida/Tennessee 271 Order*, 17 FCC Rcd 25828 at para. 159.